

# Exhibit 77



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## Left With Unanswered Questions, E&C Might Hold Another Rx-Price Hearing Soon

By John Wilkerson / December 13, 2017 at 7:23 PM

Post



Representatives of the drug-distribution sectors argued over the causes of drug prices at a House Energy & Commerce health subcommittee hearing Wednesday (Dec. 13), but lawmakers were left with unanswered questions and committee Chair Greg Walden (R-OR) said the subcommittee will likely hold another hearing on drug prices early next year.

Insulin prices became the example of rising drug prices on which lawmakers based their questions for a segment of the hearing. Walden asked how insulin went from a drug that cost \$90 a vial in 2007 to \$400 a vial in 2017.

Lori Reilly, an executive vice president for policy at the Pharmaceutical Research and Manufacturers of America, complained that, unlike other sectors of the health care system, drug rebates aren't passed back to patients. When patients are admitted to hospitals before meeting deductibles, they still pay insurance-negotiated prices for hospital services, but when they are in the drug-coverage gap, they pay list prices. CMS [requested public input on a proposal](#) to share rebates and pharmacy fees with beneficiaries. Reilly said the rebate system keeps premiums low and speeds Medicare beneficiaries into catastrophic coverage, where taxpayers foot 80 percent of the bill.

Walden then asked Matt Eyles, of America's Health Insurance Plans, for his explanation, and Eyles blamed drug makers for setting high list prices, which are the basis for rebate negotiations.

"You wouldn't be have this discussion about rebates passing through" if drug makers didn't raise list prices, he said.

Reilly retorted that net prices haven't increased nearly as much as the list price, and drug companies increased list prices because pharmacy benefit managers demand higher prices in order to negotiate bigger rebates.

"What has changed is the levels of discounts and rebates that are being demanded in part because it's an extremely competitive market," she said.

Walden ran out of time to ask follow-up questions, but soon thereafter Rep. Brett Guthrie (R-KY) picked back up on Walden's line of questioning.

"I don't think we ever got a real answer," Guthrie said at the outset of his questions.

**Pharmaceutical Care Management Association President and CEO Mark Merritt** said drug makers improved how insulin is administered, and those improvements were accompanied by new patents.

"That is how prices go up," he said.

Reilly said drug makers are at the mercy of pharmacy benefit managers. Pharmacy benefit managers determine drug placement on formularies that up to 100 million consumers use, so drug companies must hike prices so they can provide bigger rebates in order to get drugs on those formularies.

**"The list price is not set in a vacuum," Reilly said. "Our companies have to engage with PBMs and insurance companies every day in determining the list price, and their preferences quite honestly matter significantly."**

Merritt said the situation Reilly described does not occur.

“It would be an antitrust violation for those discussions to ever happen,” Merritt said.

The hearing Wednesday was the fourth congressional hearing this year on drug prices, and for the fourth time lawmakers didn't ask why, if drug companies are under pressure to rebate drugs in a competitive markets, that means prices must increase. Hiking prices is a way for drug makers to avoid lowering net prices while providing pharmacy benefit managers large rebates that keep drugs well placed on formularies, a former Senate staffer said. For other goods, list prices don't go up to accommodate rebates, the source said.

[Part D coverage policies are one of the reasons](#) that drug companies raise prices in response to rebate demands, the former staffer said. Typically, sales drop when prices rise, but taxpayers cover most of the cost of drugs in Medicare Part D, so sales increase as more seniors age into Medicare, and the Part D program sails along with stable premiums. Also, drug prices overall are not rising fast, in part because the prices of generic drugs have fallen for the past 16 consecutive months, according to Chip Davis, president and CEO of the Association for Accessible Medicines. -- *John Wilkerson* ([jwilkerson@iwppnews.com](mailto:jwilkerson@iwppnews.com))

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